

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

MARCHELLO THE JEWELER INC.,

Plaintiff

-against-

INSTAGRAM A/K/A FACEBOOK INC.

Defendants.

Index No. ~~717916~~ 717916/2018

Summons

Plaintiff Designates  
Queens County as  
a place of trial

To the above-named Defendant(s)

## PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to

Appear in the Supreme Court of the State of New York at 88-11 Sutphin Blvd, Jamaica, NY 11435 to answer the complaint of the herein named plaintiff and to serve a copy of your answer on the plaintiff at within the time provided by law; within 20 days after the service of this summons, exclusive of the days of service, or 30 days after service is complete if this summons is not personally delivered to you within State of New York. In the case of your failure to appear or answer, Judgment will be taken against you by default for the relief demanded in this complaint.

Plaintiff's address: Marchello the Jeweler  
89-02 165<sup>th</sup> Street, Booth J-22  
Jamaica, NY 11432

Defendants' Instagram address:  
770 Broadway  
New York, NY 1003

Defendant Facebook Address  
80 State Street  
Albany, NY 12207

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Credit

Dated: Manhasset, New York

November 20, 2018

Documents Pay At Court E-File  
Tr. 3354796  
\$305.00

Queens County Clerk's Office  
Pgm 2743520 11/21/2018 1:24p  
Cashier GRAFHAEL Register # 2

By: Diana Rubin

The Law Office of Diana Rubin

Diana Rubin Esq.,

Attorney for plaintiff

1129 Northern Blvd, Suite 404

Manhasset, NY 11030

Tel (212) 603-9334

Fax (516) 272-4171

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

.....X  
MARCHELLO THE JEWELER INC.,

Plaintiff

-against-

INSTAGRAM and FACEBOOK INC.

.....X

717916  
Index No. ~~717899~~/2018

**VERIFIED COMPLAINT**

Plaintiff, MARCHELLO THE JEWELER INC., by its attorney Diana Rubin, alleges against  
INSTAGRAM A/K/A FACEBOOK INC., upon information and belief as follows:

**THE PARTIES**

1. Plaintiff, MARCHELLO THE JEWELER INC., is a reputable company that engages in the trade of Diamond Jewelry in the State of New York, and on various online platforms, its annual sales exceeds Million Dollars (hereinafter "plaintiff").
2. Defendants, Instagram and Facebook are online platforms used by plaintiff mainly for publicity and occasionally for sales.

**FACTUAL BACKGROUND**

3. Plaintiff had created and developed a successful Business Instagram page which currently has over 160,000 followers.
4. Plaintiff developed this page with hard labor over six years.
5. On or about November 14, 2018, plaintiff noticed suspicious activity on its account.
6. On or about November 14, 2018 Plaintiff's Instagram, Facebook, and email accounts were hacked.
7. On or about November 14, 2018 Plaintiff's phone number was hacked, incoming phone calls were transferred to hacker's phone.

8. Plaintiff immediately notified Instagram/Facebook that its Instagram page was hacked, and that it could not access it, requesting Instagram to suspend its account pending investigation.
9. Instagram is not reachable via phone thus all communications were via email.
10. Instagram claimed that it could not verify plaintiff's identity via email as the hacker has control over plaintiff's email address.
11. Plaintiff's CEO Mark Zavulunov emailed his driver license picture, and his picture for verification, plaintiff also pointed out to Instagram personnel that the hacker changed the phone number on the page from 646-509-1819 to +36 31 234 5698 to some number in Hungary while maintaining the listed address of Marchello the Jeweler's address in Queens NY. Mark also pointed out the email was changed from Marchellothejeweler@aol.com to \*\*\*\*\*co@wocky.com.
12. Plaintiff hired a third party to attempt to regain control over the accounts.
13. Plaintiff regained control of its accounts and phone number with an exception of Instagram account.
14. As of today's, date the hacker maintains full control over plaintiff's Instagram page.
15. Instagram still could not verify plaintiff via email as the email on the Instagram page was changed from Marchellothejeweler@aol.com to \*\*\*\*\*co@wocky.com.
16. The Hacker posted on plaintiff's Instagram page that he accepts bitcoin, something that plaintiff never accepted, and also reduced the prices of the jewelry previously listed by plaintiff, for instance a piece of jewelry that plaintiff listed for \$50,000 the hacker reduced it to \$25,000.
17. The hacker accepted payment from at least two individuals in a form of bitcoin for a fabricated sale of goods.

18. Two individuals reached out to plaintiff stating that they had paid in bitcoins for alleged goods sold on Instagram.

**AS PER THE FIRST CAUSE OF ACTION**

**DECLARATORY JUDGEMENT**

19. Plaintiff repeats and realleges each and every allegation set forth in the prior paragraphs.

20. Plaintiff requests that the court order Instagram to suspend plaintiff's account currently controlled by the hacker, until the court and Instagram will validate plaintiff's identity.

21. Plaintiff's identity could be validated by couple forms of ID, business tax, and lease agreement, all of which will be provided to court in due course.

22. On November 16 and 17, 2018 Plaintiff went to the local police department requesting to make a police report for identity theft, his request was declined.

23. On November 19, 2018 Plaintiff wrote to the Federal Bureau of Investigation, requesting their help against this cyber-crime.

24. On November 20, 2018 Plaintiff's business bank account was hacked where certain funds in an approximate amount of \$10,000 were taken out from its account, luckily plaintiff had a BLOCK feature on his account, the funds should to be reverted back.

25. Hacker had threatened plaintiff in their communication that if plaintiff won't pay hacker 2.5 bitcoins hacker will use plaintiff's account "until it satisfied" delete the page and disappear.

26. Plaintiff prays to the court to declare it as rightful owner of the Instagram page.

**AS PER THE SECOND CAUSE OF ACTION**

**INJUNCTIVE RELIEF**

27. Plaintiff repeats and realleges each and every allegation set forth in the prior paragraphs.

28. Plaintiff requests a temporary relief and a mandatory injunction directing Instagram to suspend plaintiff's account in order to protect its 167,000 followers from scams, and direct Instagram to verify plaintiff's identity via different means and ultimately transfer control of the page to its rightful owner, plaintiff herein.

29. Plaintiff invested 6 years' worth of effort to develop its Instagram page.

WHEREFORE, plaintiff requests judgment:

- (a) On First Cause of Action, a declaratory judgment that plaintiff is Marchello the Jeweler and is the rightful owner of its Instagram page.
- (b) On A Second Cause of Action, temporary relief and a mandatory injunction directing Instagram to suspend plaintiff's account, directing Instagram to verify plaintiff's identity, and ultimately transferring the control of the said Instagram page from the hacker to plaintiff.

Dated: Manhasset, New York  
November 20, 2018

By: Diana Rubin  
**The Law Office of Diana Rubin**  
*Diana Rubin Esq.,*  
*Attorney for plaintiff*  
1129 Northern Blvd, Suite 404  
Manhasset, NY 11030  
Tel (212) 603-9334  
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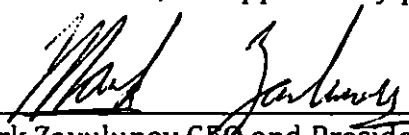
## VERIFICATION

STATE OF NEW YORK )

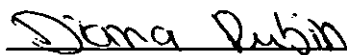
COUNTY OF NASSAU )

I am the CEO of Marchello the Jeweler Inc., the Plaintiff herein, I have read the foregoing Verified Complaint, and know the contents thereof; the same is true to my knowledge, except as to matters therein states to be alleged upon information and belief, and as to those matters I believe them to be true. The grounds for my belief as to all matters not stated upon my own knowledge is direct involvement, as supported by plaintiff's books and records.

By:

  
Mark Zavulunov CEO and President of  
Marchello the Jeweler Inc.

Sworn before me this  
November 21, 2018



Diana Rubin

Notary Public State of New York

No. 02RU6303766 My Commission Expires June 23, 2018

Qualified in Nassau County

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS.....X  
MARCHELLO THE JEWELER INC.,

Index No.

Plaintiff

-against-

INSTAGRAM A/K/A FACEBOOK INC.

Defendants.

.....X

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SUMMONS AND COMPLAINT

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Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State. Certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (1) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fees earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: 11-21-2018

Signature: Diana Rubin

Print Signer's Name: Diana Rubin

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THE LAW OFFICE OF DIANA RUBIN

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Attorney for Plaintiffs  
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